

DATE: May 21, 2013

TO: Joanna Anderson, Acting Deputy Director  
Department of Planning and Zoning

FROM: Nathan Randall, Planner  
Department of Planning and Zoning

SUBJECT: Special Use Permit #2013-0028  
Administrative Review for Minor Amendment  
Site Use: Restaurant  
Applicant: ATC IV, LLC  
Location: 2850 Eisenhower Avenue  
Zone: OCM(100) / Office Commercial Medium (100)

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### **Request**

Special Use Permit #2013-0028 is a minor amendment request at an existing restaurant at the Alexandria Tech Center at 2850 Eisenhower Avenue. The establishment is located in a 2,000 square-foot, ground-level tenant space in the southwestern portion of a 10-story office building. The applicant requests the following three changes: 1) to extend the closing hour from 6 p.m. to 10 p.m. Monday-Saturday and to allow Sunday hours of 6 a.m. to 10 p.m.; 2) to add on-premises beer and wine sales and 3) to add acoustic music (live entertainment) to the restaurant. No other changes to the restaurant operation are proposed.

### **Background**

City Council granted SUP#2012-0023 in May 2012 to the applicant for the operation of a 40-seat restaurant. KD's Sidewalk Café opened in approximately November of last year and closed last month. The applicant, who prefers to retain ownership of the Special Use Permit, has now arranged for a new restaurant operator to occupy the tenant space.

### **Community Outreach**

Public notice was provided through eNews, via the City's website, and by posting a placard on the site. In addition, the Carlyle Towers Condominium and Carlyle-Eisenhower Civics associations were sent written notification of the current application. Staff has not received any comments from residents or adjacent businesses.

### **Staff Action**

Staff does not object to the applicant's requests, all of which are eligible for minor amendment approval since they are restaurant features no greater than what is allowed under the standards for administrative approval pursuant to Section 11-511(A)(2)(b)(ii) of the Zoning Ordinance. The new Sunday hours are reasonable and the new closing hour of 10 p.m. is still considerably earlier than the latest closing hour for restaurants in the vicinity. Live entertainment and on-premises alcohol are common, reasonable features for a restaurant in this largely commercial area. Staff has included new and amended

condition language to limit the alcohol sales to on-premises only (Condition #23) and to limit the live entertainment to be consistent with the standard allowed for administrative approval (Condition #5).

Staff hereby approves the Special Use Permit request.

**ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:**

Date: 5/21/2013  
Action: Approved

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Joanna Anderson, Acting Deputy Director

Attachments: 1) Special Use Permit Conditions  
2) City Department Comments  
3) Statement of Consent

**CONDITIONS OF SPECIAL USE PERMIT #2013-0028**

The new owner is responsible for ensuring that the following conditions are adhered to at all times. Violation of any of the conditions may result in fines and/or referral to public hearing by the Planning Commission and City Council.

1. The Special Use Permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z) (SUP#2012-0023)
2. The maximum number of seats at the restaurant shall be 40, including both indoor and outdoor seating. (P&Z) (SUP#2012-0023)
3. **CONDITION AMENDED BY STAFF:** The hours of operation at the restaurant shall be limited to between 6:00 a.m. and ~~6:00 p.m.~~ 10 p.m., Monday through Saturday daily. Meals ordered before 10 p.m. may be sold, but no new patrons may be admitted and no new alcohol may be served, and all patrons must leave by 11 p.m. (P&Z) (~~SUP#2012-0023~~)
4. The applicant shall post the hours of operation at the entrance of the business. (P&Z) (SUP#2012-0023)
5. **CONDITION AMENDED BY STAFF:** Limited live entertainment shall be permitted on the second floor of the restaurant in the form of background music for restaurant patrons. No cover or admission fee may be assessed. All entertainment shall be subordinate to the principal function of the restaurant as an eating establishment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment. No live entertainment shall be allowed in the outdoor dining area at the restaurant. (P&Z) (~~SUP#2012-0023~~)
6. Not more than one delivery vehicle operated by the applicant may be used to deliver food to customers. The delivery vehicle must park in an off-street parking space when at the restaurant. (P&Z)(T&ES) (SUP#2012-0023)
7. **CONDITION DELETED BY STAFF (See Condition #3):** ~~Meals ordered before the closing hour may be sold, but no new patrons may be admitted and all patrons must leave by one hour after the closing hour.~~ (P&Z) (~~SUP#2012-0023~~)
8. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements, and on how to prevent underage sales of alcohol. (P&Z) (SUP#2012-0023)
9. No food, beverages, or other material shall be stored outside. (P&Z) (SUP#2012-0023)
10. Trash and garbage shall be placed in sealed containers which do not allow odors

- to escape and shall be stored inside or in closed containers which do not allow invasion by animals. No trash or debris shall be allowed to accumulate on site outside of those containers. (P&Z) (SUP#2012-0023)
11. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (T&ES) (SUP#2012-0023)
  12. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP#2012-0023)
  13. All waste products including but not limited to organic compounds (solvents), shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers or be discharged onto the ground. (T&ES) (SUP#2012-0023)
  14. The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES) (SUP#2012-0023)
  15. All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES) (SUP#2012-0023)
  16. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES) (SUP#2012-0023)
  17. The applicant shall require its employees who drive to use off-street parking and/or provide employees who use mass transit with subsidized bus and rail fare media. The applicant shall also post DASH and Metrobus schedules on-site for employees. The applicant shall also provide information about off-street parking and alternative forms of transportation to access the location of the restaurant, via print and electronic promotional materials, posting on the restaurant website, and other similar methods. (P&Z) (T&ES) (SUP#2012-0023)
  18. The proposed exhaust vent or fan shall be located as far away as possible from residential properties and in manner as to not impact the intake vent of adjacent businesses or properties. (T&ES) (SUP#2012-0023)
  19. The applicant shall post a sign at the front of the building directing patrons to the location of off-street parking to the satisfaction of the Director of Planning and Zoning. (P&Z) (SUP#2012-0023)
  20. The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health) (SUP#2012-0023)

21. The applicant shall contact the Community Relations Unit of the Alexandria Police Department at 703-746-6838 regarding a security survey for the business and a robbery readiness program for all employees. (Police) (SUP#2012-0023)
22. The Director of Planning and Zoning shall review the Special Use Permit after it has been operational for one year, and shall docket the matter for consideration by the Planning Commission and City Council if: (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the Director has received a request from any person to docket the permit for review as the result of a complaint that rises to the level of a violation of the permit conditions, or (c) the Director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z) (SUP#2012-0023)
23. **CONDITION ADDED BY STAFF:** On-premises alcohol service may be allowed, but no off-premises alcohol sales shall be permitted. (P&Z)

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services

R-1 *Carry forward from SUP2012-00023:*

11. Litter on the site and on the public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (TES) (SUP2012-00023)
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18. The proposed exhaust vent or fan shall be located as far away as possible from residential properties and in manner as to not impact the intake vent of adjacent businesses or properties. (T&ES) (SUP2012-00023)

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line. (T&ES)
- C-2 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99).

In order to comply with this code requirement, the applicant shall provide a completed Recycling Implementation Plan (RIP) Form within 60 days of City Council approval. Contact the City's Recycling Program Coordinator at (703) 746-4410, or via e-mail at [commercialrecycling@alexandriava.gov](mailto:commercialrecycling@alexandriava.gov), for information about completing this form. (T&ES) (SUP2011-000020)

#### Code Administration

- F-1 No comments received

#### Health Department

##### *Food Facility*

1. An Alexandria Health Department Permit is required for all regulated facilities. A permit shall be obtained prior to operation, and is not transferable between one individual or location to another.
2. Plans shall be submitted to the Health Department through the Multi-Agency Permit Center. Plans shall be submitted and approved by the Health Department prior to construction. There is a \$200 plan review fee payable to the City of Alexandria.
3. Plans shall comply with Alexandria City Code, Title 11, Chapter 2, The Food and Food Handling Code of the City of Alexandria. Plans shall include a menu of food items to be offered for service at the facility and specification sheets for all equipment used in the facility, including the hot water heater.
4. Facilities engaging in the following processes may be required to submit a HACCP plan: Smoking as a form of food preservation; curing foods; using food additives to render food non-potentially hazardous; vacuum packaging, cook-chill, or sous-vide; operating a molluscan shellfish life-support system; and sprouting seeds or beans.
5. A Certified Food Manager shall be on duty during all operational hours.

6. The facility shall comply with the Virginia Indoor Clean Air Act and the Code of Alexandria, Title 11, Chapter 10, Smoking Prohibitions.
7. Wood flooring in eating areas shall be finished in a manner that is smooth, durable, easily-cleanable, and non-absorbent. In many cases, original wooden flooring in historical structures may not be suitable for food service facilities.

Parks & Recreation

F-1 No comments received

Police

- F-1 The applicant is seeking an “ABC On” license only. The Police Department has no objections.
- F-2 No objection to allowing acoustic music or extending hours.



STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2013-0028. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the day care center at 2850 Eisenhower Avenue.

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Applicant - Signature

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Date

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Applicant – Printed

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Date